

Hearing Date: October 27, 2005 at 10:00 a.m.

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re : Chapter 11
:
DELPHI CORPORATION et al., : Case No. 05-44481 (RDD)
:
Debtors. : (Jointly Administered)

**LIMITED OBJECTION OF THE WORTHINGTON STEEL COMPANY AND
WORTHINGTON STEEL OF MICHIGAN, INC. TO FINANCING
MOTION AND INTERIM AND/OR FINAL DIP FINANCING ORDER**

The Worthington Steel Company and Worthington Steel of Michigan, Inc. (“Worthington”) hereby files this limited objection (the “Limited Objection”) to the Financing Motion (defined below) and the Interim and/or Final¹ DIP Financing Order (defined below).

Worthington’s objection is limited to the issue of whether the Financing Motion or Interim DIP Financing Order limits or impairs any setoff rights of Worthington protected by Section 553 of the Bankruptcy Code and other applicable non-bankruptcy law.

I. BACKGROUND

1. On October 8, 2005 (the “Petition Date”), the Debtors filed their voluntary

¹ Worthington understands that a proposed Final DIP Financing Order may be tendered to the Court at the October 27, 2005 Hearing. To the extent that the Final DIP Financing Order limits or impairs the setoff and/or recoupment rights of Worthington in any way, Worthington objects to the entry of such Final DIP Financing Order.

petitions for bankruptcy relief under chapter 11 of Title 11 of the United States Code, 11 U.S.C. § 101 et. seq. (the “Bankruptcy Code”). Debtors continue to operate their business and manage their affairs as debtors in possession pursuant to 11 U.S.C. §§ 1107 and 1108.

2. On the Petition Date, the Debtors filed their Motion for Order Under 11 U.S.C. §§ 105, 361, 362, 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1), and 364(e) and Fed. Bankr. 2002, 4001 and 9014 (I) Authorizing Debtors to Obtain Postpetition Financing, (II) to Utilize Cash Collateral, (III) Granting Adequate Protection to Prepetition Secured Parties and (IV) Scheduling Final Hearing Pursuant to Bankruptcy Rules 4001(b) and (c) (the “Financing Motion”) (docket number 42). The Financing Motion does not request any relief as to the setoff and/or recoupment rights of Worthington.

3. Attached to the Financing Motion was a proposed Interim Order Under 11 U.S.C. §§ 105, 361, 362, 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1), and 364(e) and Fed. Bankr. 2002, 4001 and 9014 (I) Authorizing Debtors to Obtain Postpetition Financing, (II) to Utilize Cash Collateral, (III) Granting Adequate Protection to Prepetition Secured Parties and (IV) Scheduling Final Hearing Pursuant to Bankruptcy Rules 4001(b) and (c) (the “Proposed Interim DIP Financing Order”). The Proposed Interim DIP Financing Order contained no language addressing the setoff and/or recoupment rights of Worthington.

4. Worthington was not served with the Financing Motion and the Proposed Interim DIP Financing Order, and had no notice that additional language was added to the Proposed Interim DIP Financing Order relating to the setoff rights of Worthington.

5. On October 12, 2005, this Court entered the Interim Order Under 11 U.S.C. §§ 105, 361, 362, 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1), and 364(e) and Fed. Bankr. 2002, 4001 and 9014 (I) Authorizing Debtors to Obtain Postpetition Financing, (II) to Utilize Cash

Collateral, (III) Granting Adequate Protection to Prepetition Secured Parties and (IV) Scheduling Final Hearing Pursuant to Bankruptcy Rules 4001(b) and (c) (the “Interim DIP Financing Order”) (docket number 164). The Interim Financing Order contained a new paragraph 18 relating to setoff rights.

6. The Interim DIP Financing Order set October 20, 2005 at 4:00 p.m. (the “Objection Deadline”) as the deadline for parties to file objections to the relief requested in the Financing Motion. The Interim DIP Financing Order also scheduled a final hearing on the Financing Motion for October 27, 2005 (the “Financing Motion Hearing”).

II. Objections

A. The Interim DIP Financing Order Objections

7. Pursuant to Section 553 of the Bankruptcy Code and applicable non-bankruptcy law, Worthington is entitled to retain any pre-petition rights of setoff it may have with respect to debts owing between Worthington and the Debtors.

8. New paragraph 18 of the Interim DIP Financing Order (the “Setoff Provision”) has the effect of impairing the setoff rights of Worthington. Worthington had no notice of the provisions of new paragraph 18.

9. For the reasons contained in the Limited Objection of Mercedes-Benz International, Inc. to Debtors’ Motion for an Order Authorizing Debtors to Obtain Post-petition Financing and for Related Relief (the “Mercedes Objection”), the Limited Objection of DaimlerChrysler Corporation to Interim DIP Financing Order (the “Daimler Objection”) and the Limited Objection by Robert Bosch Corporation and Affiliates to Financing Motion and Interim DIP Financing Order, and Requests By Bosch for Adequate Protection for Pre-Petition Setoff Rights (the “Bosch Objection”), Worthington objects to the Setoff Provision. Worthington

hereby adopts and incorporates herein by reference the arguments contained in the Mercedes Objection, the Daimler Objection and the Bosch Objection.

B. The Financing Motion Objections

10. In addition, Worthington objects to the Financing Motion to the extent it now seeks a final order incorporating the Setoff Provision, or provisions of similar import.

11. To the extent that the Debtors now seek a final order containing the same or a similar Setoff Provision, Worthington adopts and incorporates each of the arguments advanced in the Mercedes Objection, the Daimler Objection and the Bosch Objection against such relief.

C. Notice Objection

12. Notwithstanding that this objection may be filed after the purported (but not noticed) Objection Deadline, Worthington requests that the Court consider this Limited Objection timely filed.

13. The Debtors did not provide Worthington (nor to its knowledge any other adversely affected party) with proper notice of their intent to seek the relief provided in the Setoff Provision. Neither the Financing Motion, nor the Proposed Interim DIP Financing Order, places any party on notice that their setoff rights would be affected by an order approving the Financing Motion. Neither pleading mentions third party setoff rights.

14. Due to the Debtors' failure to provide proper notice to parties in interest, Worthington should not be denied the right to be heard on this matter.

III. CONCLUSION

15. Worthington respectfully requests that the Court only approve the final order authorizing the relief requested in the Financing Motion (a) if the Setoff Provision is removed; or alternatively, (b) if the order grants Worthington full and adequate protection for its setoff rights.

Dated: October 24, 2005

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CERTIFICATE OF SERVICE

I, Tiffany StreLOW Cobb, hereby certify that on this the 24th day of October, 2005, I served a copy of the above Limited Objection upon the parties on the following Service List by Electronic Noticing and by overnight mail or regular U.S. mail, postage prepaid, as indicated below.

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